IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

TUESDAY, THE 11TH DECEMBER 2007 / 20TH AGRAHAYANA 1929

LA.App..No. 155 of 2003()

LAR.374/1996 of II ADDL.SUB COURT,TRIVANDRUM
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APPELLANT: RESPONDENT:

STATE OF KERALA.

BY GOVERNMENT PLEADER

RESPONDENTS: CLAIMANTS:

SANTHA LATHA, S/O. BHAVANI AMMA,
SAFALYA, ALTHARA ROAD,
VELLAYAMBALAM, SASTHAMANGALAM,
THIRUVANANTHAPURAM.

BY ADV. SRI.G.S.REGHUNATH

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 11/12/2007, ALONG WITH LAA NO. 180 OF 2004 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A.Nos.155/2003, 1382/2002, 409/2004, 145/2004, 521/2004 and 180/2004

Dated this the 11th day of December, 2007

JUDGMENT

Kurian Joseph,J.

These are appeals filed by the State and the claimants respectively aggrieved by the fixation of land value. The acquisition is for the purpose of Thiruvananthapuram-Neyyattinkara Bye-pass. Section 4(1) notification was issued on 31-3-1993. The Land Acquisition Officer fixed land value at the rate of Rs.19,148/- per Are. Following the pattern of fixation of land value in L.A.R.No.373/1996 the reference court refixed the land value at Rs.51,600/- per Are. According to the learned Government Pleader there is absolutely no basis for such a huge enhancement. The reference court found that the State had not produced any evidence before the reference court, not even the basic document was produced. The Land Acquisition Officer also was not examined. The claimants, however, had produced Exts.A1 to A4 documents in L.A.R.No.374/1996, of which Exts.A1 and A2 are sale deeds, Ext.A3 is an agreement for sale and

Ext.A4 is a letter of clearance from the Income-tax Department for sale. AWs 1 to 3 were also examined. An Advocate Commissioner was also deputed. Ext.C1 is the report of the Commissioner and Ext.C1(a) is the plan. The Advocate Commissioner has reported that the property would fetch around Rs.5 lakhs per cent. But it has to be seen that the notification was of the year 1993, whereas the inspection of the Advocate Commissioner was in the year 1999. The learned Government Pleader submits that the Advocate Commissioner has taken note of the developments which have taken place between 1993 and 1999. Be that as it may, since the State did not get an opportunity before the reference court, the learned Government Pleader submits that the State may be given an opportunity before the reference court for producing materials so as to sustain the value fixed by the Land Acquisition Officer. Learned counsel for the claimants submits that in which event they may also be given an opportunity to substantiate their claim before the reference court. Having regard to the submissions as above, we are of the view that it is only in the interests of justice that

the parties are given an opportunity as prayed above.

Accordingly we set aside the judgment and decree in these cases and remit the matters to the reference court for fresh consideration. The parties will appear before the reference court on 14-1-2008. The reference shall be answered within another four months. The parties shall be at liberty to adduce fresh evidence.

In view of the remand as above the claimants appellants shall be entitled to refund of the court fee.

(KURIAN JOSEPH, JUDGE)

(HARUN-UL-RASHID, JUDGE)

ahg.

KURIAN JOSEPH &
HARUN-UL-RASHID, JJ.

L.A.A.Nos.155/2003,
1382/2002, 409/2004,
145/2004, 521/2004
and 180/2004

JUDGMENT

11th December, 2007